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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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International Business Machines Corporation  
New Orchard Road  
Armonk, NY 10504

EXAMINER
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BECKLEY, JONATHAN R

ART UNIT	PAPER NUMBER
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2625

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/690,759	<b>Applicant(s)</b> ADVOCATE ET AL.	
	<b>Examiner</b> JONATHAN R. BECKLEY	<b>Art Unit</b> 2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4-6,8-10,14-17 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-6,8-10,14-17 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/22/2003</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments, see Remarks, filed 03/12/2009, with respect to the rejection(s) of claim(s) 1, 4-6, 8-10, 14-17 and 20 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of anticipation by Kircher, JR. et al. (US Publication 2003/0195937); and obviousness by Kircher, JR. et al. (US Publication 2003/0195937) further in view of Shimura et al. (US Publication 2004/0105689).

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 9, 14, 15, 16, 17 and 20 are rejected under 35 U.S.C. 102(e)** as being anticipated by **Kircher, JR. et al. (US Publication 2003/0195937)**, herein "Kircher".

Regarding **Claim 9, Kircher** teaches a facsimile system (**See Figure 1**) comprising:

a receiver (**Figure 2, computing device**) configured to receive an incoming facsimile image (**¶ 39; See Figure 1; Noted: fax 12b is received by device 14b and user 22**); and

a junk fax analyzer (**¶ 61; See Figure 4, 5a, 5b, 5c**) comprising:

a comparator configured to compare a junk fax image to the incoming facsimile image (**¶ 61; See Figure 5c, evaluate message content; Noted: Kircher does teach throughout the invention that the invention is directed to electronic messaging systems, and gives the examples of fax machines and receiving faxes (See Figure 1 and ¶ 2, 39). Kircher refers to the “content” is stored, compared, analyzed, rank, etc in the invention. It is inherent to those in the art that the content of an electronic facsimile message is an image. Kircher even discloses comparing certain “words” within portions or the contents and the main body of the message contents which are well known in the art to be done by an image and OCR.);**

a disposal configured to dispose of the incoming facsimile image in the case that the junk fax image matches at least a portion of the incoming facsimile image (**¶ 49, 61; See Figure 5c, step 94, the action applied with fuzzy logic rank (automatic deletion)**) and

a junk fax determinator configured to determine whether the incoming facsimile image is a junk fax, and save at least a portion of the incoming facsimile image as a

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junk fax image in a junk fax database in the case that the incoming facsimile image is a junk fax (**¶ 57, 63, 93 and 101**);

wherein the junk fax determinator (**¶ 49-50 and 53; See Figure 3b**) includes:

a display configured to display at least a portion of the incoming facsimile image before the image is outputted; wherein the outputting includes printing the incoming facsimile image through the facsimile system (**¶ 53 and 93; See Figure 3b**);

an interface configured to allow a recipient to view the at least a portion of the displayed image to input whether the incoming facsimile image is a junk fax (**¶ 53 and 93; See Figure 3b**); and

a selector configured to allow the recipient to select at least a portion of the incoming facsimile image to be saved as the junk fax image (**¶ 53, and 66; See Figure 3b**).

**Claim 11, Canceled.**

**Claim 12, Canceled.**

**Claim 13, Canceled.**

Regarding **Claim 14, Kircher** discloses wherein the junk fax image includes at least a portion of one of: an analyzed facsimile image from a previous communication to the facsimile system and an image of a hard copy document (**¶ 2, 61, 63, 94, 101**).

Regarding **Claim 15, Kircher** discloses wherein the junk fax image includes a plurality of junk fax images (**¶ 55, 56, 61, 63, 64**), and the step of disposing occurs in the case that at least one of the plurality of junk fax images matches at least a portion of the incoming facsimile image (**¶ 49 and 66**).

Regarding **Claim 16, Kircher** discloses wherein the disposal includes:  
a) means for deleting the incoming facsimile image (**¶ 49**).

Regarding **Claim 17, Kircher** teaches a computer program product comprising a computer useable medium having computer readable program code embodied therein for analyzing an image on a facsimile system (**¶ 21, program**), the program product comprising:

program code configured to compare a junk fax image stored in a junk fax database to an incoming facsimile image (**¶ 61; See Figure 5c, evaluate message content; Noted: Kircher does teach throughout the invention that the invention is directed to electronic messaging systems, and gives the examples of fax machines and receiving faxes (See Figure 1 and ¶ 2, 39). Kircher refers to the “content” is stored, compared, analyzed, rank, etc in the invention. It is inherent to those in the art that the content of an electronic facsimile message is an image. Kircher even discloses comparing certain “words” within portions or the**

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**contents and the main body of the message contents which are well known in the art to be done by an image and OCR.);**

program code configured to dispose of the incoming facsimile image in the case that the junk fax image matches at least a portion of the incoming facsimile image (**¶ 49, 61; See Figure 5c, step 94, the action applied with fuzzy logic rank (automatic deletion)**) and

program code configured to determine whether the incoming facsimile image is of a junk fax in the case that a match does not exist, and save at least a portion of the incoming facsimile image as a junk fax image in a junk fax database in the case that the incoming facsimile image is of a junk fax (**¶ 57, 63, 93 and 101**);

wherein the determining program code (**¶ 49-50 and 53; See Figure 3b**) includes:

program code configured to display at least a portion of the incoming facsimile image before the image is outputted; wherein the outputting includes printing the incoming facsimile image through the facsimile system (**¶ 53 and 93; See Figure 3b**); and

program code configured to allow a recipient to view the at least a portion of the displayed image to input whether the incoming facsimile image is a junk fax (**¶ 53 and 93; See Figure 3b**).

Kircher does not directly teach a junk fax image.

Kircher does teach throughout the invention that the invention is directed to electronic messaging systems, and gives the examples of fax machines and receiving

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faxes (See Figure 1 and ¶ 2, 39). Kircher refers to the “content” is stored, compared, analyzed, rank, etc in the invention. It is obvious to those in the art that the content of an electronic facsimile message is an image. Kircher even discloses comparing certain “words” within portions or the contents and the main body of the message contents which are well known in the art to be done by an image and OCR.

Therefore, it is obvious to one skilled in the art to understand the teachings of Kircher so to apply the electronic messaging system to a facsimile system which uses images (¶ 2, and 39).

**18. (Canceled).**

**19. (Canceled).**

Regarding **Claim 20**, **Kircher** discloses wherein the disposing program code includes program code configured to conduct one of:

a) delete the incoming facsimile image (¶ 49).



***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1, 4, 5, 6, 8 and 10** are **rejected** under **35 U.S.C. 103(a)** as being unpatentable over obviousness by **Kircher, JR. et al. (US Publication 2003/0195937)**, herein "Kircher," and further in view of **Shimura et al. (US Publication 2004/0105689)**, herein "Shimura".

Regarding **Claim 1**, **Kircher** teaches a method of handling a facsimile image received by a facsimile system (**¶ 2 and 10**), the method comprising the steps of:

comparing a junk fax image stored in a junk fax database to an incoming facsimile image (**¶ 61, 63 and 64**);

disposing of the incoming facsimile image in the case that the junk fax image matches at least a portion of the incoming facsimile image (**¶ 49 and 66**);

wherein if a match does not exist (**Noted: all or any other received messages which have not been automatically deleted**), the method further comprises:

determining whether the incoming facsimile is of a junk fax by displaying at least a portion of the incoming facsimile image before outputting the image, wherein

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the outputting includes printing the incoming facsimile image through the facsimile system (**¶ 49, 50, 53; Figure 3b**);

allowing a recipient to view the at least a portion of the displayed image to determine whether the incoming facsimile image is of a junk fax (**¶ 53 and 93; Figure 3b**);

saving at least a portion of the incoming facsimile image as a junk fax image in the junk fax database in the case that the incoming facsimile image is of a junk fax (**¶ 57, 63, 93 and 101**).

Kircher does not directly teach a junk fax image.

Kircher does teach throughout the invention that the invention is directed to electronic messaging systems, and gives the examples of fax machines and receiving faxes (See Figure 1 and **¶ 2, 39**). Kircher refers to the “content” is stored, compared, analyzed, rank, etc in the invention. It is obvious to those in the art that the content of an electronic facsimile message is an image. Kircher even discloses comparing certain “words” within portions or the contents and the main body of the message contents which are well known in the art to be done by an image and OCR.

Therefore, it is obvious to one skilled in the art to understand the teachings of Kircher so to apply the electronic messaging system to a facsimile system which uses images (**¶ 2, and 39**).

Kircher does not directly teach the method comprising the steps of:

calculating a toner count of at least a portion of the incoming facsimile image; and

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processing the incoming facsimile image in the case that the toner count is below a threshold.

**Kircher combined with Shimura** does directly teach the method comprising the steps of:

calculating a toner count of at least a portion of the incoming facsimile image (**Paragraph 12; Paragraph 15, Paragraph 197 and 200; Paragraphs 293-295; and Paragraph 390**); and

processing the incoming facsimile image in the case that the toner count is below a threshold (**Paragraph 12; Paragraph 15, Paragraph 197 and 200; Paragraphs 293-295; and Paragraph 390**).

Kircher and Shimura are combinable because they are all from the same art and classification of processing user data to assign rules and test upon image data to formulate a given result as to have to perform and process certain actions to rid of unwanted data.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kircher combined with the teachings of Shimura, so to define the thresholds used to determine and rank electronic messages so to prevent wastefulness of resources like toner (§ 10).

**Claim 2, Canceled.**

**Claim 3, Canceled.**

Regarding **Claim 4, Kircher combined with Shimura** discloses wherein the junk fax image includes at least a portion of an analyzed facsimile image that has been designated as a junk fax (**¶ 66-69; See Figure 7**).

Regarding **Claim 5, Kircher combined with Shimura** discloses wherein the junk fax image database includes a plurality of junk fax images(**¶ 55, 56, 61, 63 and 64**), and the step of disposing occurs in the case that at least one of the plurality of junk fax images matches at least a portion of the incoming facsimile image (**¶ 49 and 66**).

Regarding **Claim 6, Kircher combined with Shimura** discloses wherein the disposing step includes one of:

a) deleting the incoming facsimile image (**¶ 49**).

## **7. (Canceled).**

Regarding **Claim 8, Kircher combined with Shimura** discloses wherein the incoming facsimile image is generated by scanning a hard copy document (**¶ 2**).

Regarding **Claim 10, Kircher** discloses the system of claim 9.

Kircher does not directly teach the method comprising the steps of:

wherein the junk fax analyzer further comprises a toner count calculator configured to calculate a toner count of at least a portion of the incoming facsimile image.

**Kircher combined with Shimura** do directly teach the system, wherein the junk fax analyzer further comprises a toner count calculator configured to calculate a toner count of at least a portion of the incoming facsimile image (**Paragraph 12; Paragraph 15, Paragraph 197 and 200; Paragraphs 293-295; and Paragraph 390**).

Kircher and Shimura are combinable because they are all from the same art and classification of processing user data to assign rules and test upon image data to formulate a given result as to have to perform and process certain actions to rid of unwanted data.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kircher combined with the teachings of Shimura, so to define the thresholds used to determine and rank electronic messages so to prevent wastefulness of resources like toner (§ 10).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN R. BECKLEY whose telephone number is (571)270-3432. The examiner can normally be reached on Mon-Fri: 7:30-5:00 EST (Alternate Friday).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TWYLER L. HASKINS can be reached on (571)272-7406. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jonathan R Beckley/  
Examiner, Art Unit 2625  
5/18/09

**/Twylar L. Haskins/  
Supervisory Patent Examiner, Art Unit 2625**